



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC, MNDC, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for cause pursuant to section 55;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The tenant did not attend this hearing, although I waited until 11:11 a.m. in order to enable the tenant to connect with this hearing scheduled for 11:00 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present evidence and to make submissions. The landlord's agent (the agent) testified that the owner of this manufactured home handed the tenant a 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) on January 30, 2012. The agent entered written evidence witnessed by a third party that the agent handed the tenant a copy of the landlord's dispute resolution hearing package at 2:38 p.m. on March 6, 2012. I am satisfied that the landlord served these documents to the tenant in accordance with the *Act*.

### Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for cause? Is the landlord entitled to a monetary award for loss arising out of this tenancy? Is the landlord entitled to recover the filing fee for this application from the tenant?

### Background and Evidence

The agent testified that this periodic tenancy for this manufactured home commenced on or about March 28, 2011. Monthly rent is set at \$750.00, payable in advance on the first of each month. The landlord continues to hold a \$375.00 security deposit paid on or about March 28, 2011.

The landlord applied for an end to this tenancy and an Order of Possession. The landlord also applied for a monetary award of \$750.00, as the tenant has remained in the rental unit after the February 29, 2012 effective date identified in the 1 Month Notice.

The agent testified that the tenant has not paid anything towards this tenancy for March 2012.

The landlord entered into written evidence a copy of the 1 Month Notice, which cited the following reasons for the issuance of the Notice:

*Tenant has allowed an unreasonable number of occupants in the unit/site*

*Tenant or a person permitted on the property by the tenant has:*

- *significantly interfered with or unreasonably disturbed another occupant or the landlord.*

The agent said that the tenant has not obtained the landlord's permission, required under their tenancy agreement, to have anyone other than her child reside in the rental unit. The agent testified that the tenant allowed a male, his female friend and additional children and a number of dogs to reside in the rental unit. The agent said that the original two dogs brought with these new residents have since had puppies. She testified that at one time the 11 dogs in the home were causing considerable interference with and disturbance to other residents of the manufactured home park. She said that six dogs continue to occupy the premises.

### Analysis

Based on the landlord's undisputed evidence, I am satisfied that the landlord had sufficient grounds to issue the 1 Month Notice and obtain an end to this tenancy for cause. The tenant has not made application pursuant to section 47(4) of the *Act* within ten days of receiving the 1 Month Notice. In accordance with section 47(5) of the *Act*, the tenant's failure to take this action within ten days led to the end of his tenancy on the effective date of the notice. In this case, this required the tenant to vacate the premises by February 29, 2012. As that has not occurred, I find that the landlord is entitled to a 2 day Order of Possession. The landlord will be given a formal Order of Possession which must be served on the tenant. If the tenant does not vacate the rental unit within the 2 days required, the landlord may enforce this Order in the Supreme Court of British Columbia.

Based on the undisputed evidence of the landlord, I find that the tenant has overheld the rental premises beyond the effective date of the 1 Month Notice. As a result, the landlord has experienced loss of rent for March 2012 because the tenant has remained in the premises without paying anything to the landlord. I find that the landlord is entitled to a monetary award of \$750.00 for loss of rent for March 2012.

Although the landlord's application does not seek to retain the tenant's security deposit, using the offsetting provisions of section 72 of the *Act*, I allow the landlord to retain the tenant's security deposit plus applicable interest in partial satisfaction of the monetary award. No interest is payable over this period.

As the landlord has been successful in this application, I allow the landlord to recover the \$50.00 filing fee from the tenant.

#### Conclusion

I provide the landlord with a formal copy of an Order of Possession to take effect within 2 days of the landlord's service of this notice to the tenant(s). Should the tenant(s) fail to comply with this Order, this Order may be filed and enforced as an Order of the Supreme Court of British Columbia.

I issue a monetary Order in the landlord's favour in the following terms which allows the landlord to recover loss of rent for March 2012 and the filing fee and to retain the tenant's security deposit in partial satisfaction of this monetary award.

Item	Amount
Loss of Rent March 2012	\$750.00
Less Security Deposit	-375.00
Recovery of Filing Fee for this application	50.00
<b>Total Monetary Order</b>	<b>\$425.00</b>

The landlord is provided with these Orders in the above terms and the tenant must be served with a copy of these Orders as soon as possible. Should the tenant fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 23, 2012

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Residential Tenancy Branch